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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,573	12/21/2001	Andrew Samways	178/50688	2459

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13
EXAMINER

COOLEY, CHARLES E

ART UNIT	PAPER NUMBER
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1723

DATE MAILED: 08/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/024,573

Applicant(s)

SAMWAYS, ANDREW

Examiner

Charles E. Cooley

Art Unit

1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 16 June 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-6 and 8-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 10, 13 and 14 is/are allowed.
- 6) ☐ Claim(s) 1-6, 8, 9, 11 and 12 is/are rejected.
- 7) ☐ Claim(s) 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on 16 June 2003 is: a) ☒ approved ^{and} b) ☒ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other.

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 16 JUN 2003 has been entered.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d) which papers have been placed of record in the file.

Drawings

3. The proposed drawing filed on 16 JUN 2003 has been received. The drawing correction of Fig. 1(a) is approved. The proposed drawing correction of Fig. 1(c), filed on 16 JUN 2003, has been disapproved because it introduces new matter into the drawings. 37 CFR 1.121(f) states that no amendment may introduce new matter into the disclosure of an application. The original disclosure does not support the showing of the subject matter of Figure 1(c).

4. The drawings are objected to under 37 CFR § 1.83(a) since the drawings must show every feature of the invention specified in the claims. Therefore, the following

features must be shown or the features canceled from the claims. No new matter should be entered.

a. the subject matter of claim 13 (the means responsive to the presence of the abutment to facilitate securing of the cover part to the base part and to prevent the cover part from being attached to the base if the abutment is missing). It is unclear where this subject matter is shown in either the originally filed set of drawings or the drawing correction filed 16 JUN 2003 (see paragraph 0034 of the instant specification).

b. the subject matter of claim 14 (the interlock means). Note Fig. 1(c) of the drawing correction filed 16 JUN 2003 is considered new matter so this objection remains outstanding.

5. If the above subject matter is to be shown, Applicant is required to submit a proposed drawing correction in response to this Office Action. Any proposal by the applicant for amendment of the drawings to cure defects must include a print or pen-and-ink sketch showing changes in *red ink* in accordance with MPEP § 608.02(v).

IMPORTANT NOTE: The filing of new formal drawings to correct the noted defect may be deferred until the application is allowed by the examiner, but the print or pen-and-ink sketch with proposed corrections shown in red ink is required in response to this Office Action, and *may not be deferred*.

Specification

6. The abstract and title are acceptable.

7. The amendment filed 16 JUN 2003 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

- a. The disclosure of the position switch 85 in paragraph 0034 is not supported.
- Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-6, 8-9, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Jones (US 2,321,144).

The patent to Jones (US 2,321,144) discloses a centrifuge comprising a housing with a base part 14, 25, 26 and a cover part 28; separation rotor 13 mounted on spindle 22; a circumferentially extending (around the rotor 13) restraining surface (the flange area of the rotor just below reference character "41" in Fig. 2 where the first and second component parts of the rotor are joined); a circumferentially annular and axially extending tubular abutment body 24 overlying the restraining surface which is detachably secured to the base via a radially directed mounting flange (the area of the abutment body 24 in which the detents 25 are seated as seen in Fig. 2) and which

abutment has a radially inwardly directed flange overlying the restraining surface (the area just below 40 in Fig. 2); the spindle having a first stub axle (above 22) and a second stub axle 31.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jones (US 2,321,144) in view of Brimhall (US 5,665,047).

Jones (US 2,321,144) does not disclose the warning means. Brimhall (US 5,665,047) discloses a centrifuge having a rotor 30 mounted for rotation within housing 12. A cover 14 of the centrifuge has warning means in the form of a window 11. It would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to have provided the centrifuge of Jones (US 2,321,144) with warning means such as a window as disclosed by Brimhall (US 5,665,047) for the purpose of allowing the operator to view the inside of the centrifuge (Col. 3, lines 24-28).

Allowable Subject Matter

12. Claims 10, 13 and 14 are allowable over the prior art of record. Note, however, the application cannot be allowed until the drawing objections are properly addressed.

13. Claim 15 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Note the combination of claim 1 and claim 15 would appear to generate claim 10 which stands allowed.

Response to Amendment

14. Applicant's arguments filed 16 JUN 2003 have been fully considered but they are not deemed to be persuasive.

In response to Applicant's remarks, the patent to Jones has been interpreted in a slightly different manner. The area of the abutment body 24 in which the detents 25 are seated as seen in Fig. 2 clearly has a component of direction in the radial direction toward the axis of rotation and is attached to the abutment body proper. This structure even correlates to Applicant's definition of a "flange" appearing on page 11 of the remarks in that said area can reasonably be considered a rib for attachment to the base part 25, 26, 14. Note said area is ribbed relative to the smooth surface of the abutment body to provide an area such that the detents of the base part can detachably secure the abutment to the base part.

The examiner takes issue with Applicant's assertion that he has not addressed the claim limitation drawn to the supply pressure controversy. First, such language did not appear in the previous version of the claim (except in the preamble where it hardly limits the claimed invention) and Applicant was cautioned that such functional language is of no patentable consequence (see Paper No. 10, page 9, second paragraph). The examiner also discussed this issue on page 10 of Paper No. 10. Accordingly, for Applicant to conclude that the examiner ignored this limitation is premature and inaccurate. The examiner in no way suggested (in Paper No. 10) that such language would render claim 1 allowable. The examiner merely explained that Applicant was arguing subject matter lacking from the claims. Notwithstanding this, the Jones device is analogous prior art to the instant invention and clearly operates under a pressure condition by virtue of oil pump 10.

Applicant is invited to read page 2, col. 1, lines 48-59 of the Jones patent where it states that the abutment body [guard] is **detachably secured** in place by means of spring-pressed detents 25 (emphasis by the examiner). Stated another way, the abutment body is secured in place during operation. Accordingly, it is envisioned that the abutment body would indeed be secured in place under conditions of the recited elevated pressure present in the Jones device (whatever the metes and bounds of the recited elevated pressure are). Nevertheless, the language added to claim 1 regarding the axial force exerted by the elevated pressure is not considered a structural limitation to define over the prior. Applicant may file an affidavit on this topic but the examiner predicts it will be wholly unconvincing as merely expressing opinions on the functioning

of the Jones device. It would be more fruitful for Applicant to further define the structure of the instant invention rather than relying on some unproven functional distinction (e.g., the subject matter of new claim 15 clearly defines over Jones and stands allowed – as does claim 10).

Conclusion

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles E. Cooley whose telephone number is (703) 308-0112. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker can be reached on (703) 308-0457. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Charles E. Cooley
Primary Examiner
Art Unit 1723

CEC
August 7, 2003